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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/988,811	11/20/2001	Nick Steele	17331-0010	8011
20786	7590	01/23/2006	EXAMINER	
KING & SPALDING LLP 191 PEACHTREE STREET, N.E. 45TH FLOOR ATLANTA, GA 30303-1763			CANGIALOSI, SALVATORE A	
		ART UNIT	PAPER NUMBER	3621

DATE MAILED: 01/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/988,811	STEELE ET AL.
	Examiner Salvatore Cangialosi	Art Unit 3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 10 November 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-8,43-48 and 60-67 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-8,43-48 and 60-67 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/24/03</u> | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

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1. The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

2. Claims 1-8, 43-48, 60-67 are rejected under 35 U.S.C. § 103 as being unpatentable Cook (6725050) or Catan (6491217) alone or further in view of Rosenthal et al (5737701).

Regarding claim 1, Cook (See abstract, Figs. 1-3, 6, 9, Col. 2, lines 20-55, Col. 5, lines 40-60, Col. 8, lines 20-25) or Catan (See Figs. 1, 4, 6A-9, 11-13, 20, 22, Col. 7, lines 1-45) both disclose a method for a wireless mobile device performing an information transaction based upon user entered input and authenticating with a server substantially as claimed. The differences between the above and the claimed invention is the use of promotional code. It is noted that the information input by the user into the mobile wireless device is believed to be the functional equivalent of a promotional code. Rosenthal et

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al (See Figs. 1-5) show a method for wireless transactions authentication including a server. It would have been obvious to the person having ordinary skill in this art to provide a similar arrangement for Cook or Catan because the input code elements are conventional functional equivalents. Regarding the instruction limitations of claim 2, the use of the digital environment in the wireless devices of the prior art is a functional equivalent of the claimed limitations. Regarding authentication limitations of claim 3, Cook (See abstract, Figs. 1-3, 6, 9, Col. 2, lines 20-55, Col. 5, lines 40-60, Col. 8, lines 20-25) or Catan (See Figs. 1, 4, 6A-9, 11-13, 20, 22, Col. 7, lines 1-45) both disclose a wireless mobile device performing an information transaction based upon user entered input and authenticating with a server is a functional equivalent of the claimed limitations. Regarding code limitations of claim 4, Cook (See abstract, Figs. 1-3, 6, 9, Col. 2, lines 20-55, Col. 5, lines 40-60, Col. 8, lines 20-25) or Catan (See Figs. 1, 4, 6A-9, 11-13, 20, 22, Col. 7, lines 1-45) both disclose a wireless mobile device performing an information transaction based upon user entered input and authenticating with a server based on client device identification is a functional equivalent of the claimed limitations. Regarding the promotional limitations of claims 5-6, Cook (See abstract, Figs. 1-3, 6, 9, Col. 2, lines 20-55, Col. 5, lines 40-60, Col. 8, lines 20-25) or Catan (See Figs. 1, 4, 6A-9, 11-13, 20, 22, Col. 7, lines 1-45) both disclose a wireless mobile device performing an information

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transaction based upon user entered input and authenticating with a server and including product promotions is a functional equivalent of the claimed limitations. Regarding database limitations of claims 7-8, Cook (See abstract, Figs. 1-3, 6, 9, Col. 2, lines 20-55, Col. 5, lines 40-60, Col. 8, lines 20-25) or Catan (See Figs. 1, 4, 6A-9, 11-13, 20, 22, Col. 7, lines 1-45) both disclose a wireless mobile device performing an information transaction based upon user entered input and authenticating with a server including databases is a functional equivalent of the claimed limitations. Regarding claim 43, Cook (See abstract, Figs. 1-3, 6, 9, Col. 2, lines 20-55, Col. 5, lines 40-60, Col. 8, lines 20-25) or Catan (See Figs. 1, 4, 6A-9, 11-13, 20, 22, Col. 7, lines 1-45) both disclose a means for a wireless mobile device performing an information transaction based upon user entered input and authenticating with a server substantially as claimed. The differences between the above and the claimed invention is the use of promotional code. It is noted that the information input by the user into the mobile wireless device is believed to be the functional equivalent of a promotional code. Rosenthal et al (See Figs. 1-5) show a method for wireless transactions authentication including a server. It would have been obvious to the person having ordinary skill in this art to provide a similar arrangement for Cook or Catan because the input code elements are conventional functional equivalents. Regarding account limitations of claim 44, Cook (See abstract, Figs. 1-3,

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6, 9, Col. 2, lines 20-55, Col. 5, lines 40-60, Col. 8, lines 20-25) or Catan (See Figs. 1, 4, 6A-9, 11-13, 20, 22, Col. 7, lines 1-45) both disclose a wireless mobile device performing an information transaction based upon user entered input and authenticating with a server and is based on the client server model including separate files for each which is a functional equivalent of the claimed limitations. Regarding the promotional limitations of claim 45, Cook (See abstract, Figs. 1-3, 6, 9, Col. 2, lines 20-55, Col. 5, lines 40-60, Col. 8, lines 20-25) or Catan (See Figs. 1, 4, 6A-9, 11-13, 20, 22, Col. 7, lines 1-45) both disclose a wireless mobile device performing an information transaction based upon user entered input and authenticating with a server and including product promotions is a functional equivalent of the claimed limitations. Regarding wireless limitations of claim 46, Cook (See abstract, Figs. 1-3, 6, 9, Col. 2, lines 20-55, Col. 5, lines 40-60, Col. 8, lines 20-25) or Catan (See Figs. 1, 4, 6A-9, 11-13, 20, 22, Col. 7, lines 1-45) both disclose a wireless mobile device performing an information transaction based upon user entered input and authenticating with a server within a network including gateways is a functional equivalent of the claimed limitations. Regarding wireless device limitations of claim 47, Cook (See abstract, Figs. 1-3, 6, 9, Col. 2, lines 20-55, Col. 5, lines 40-60, Col. 8, lines 20-25) or Catan (See Figs. 1, 4, 6A-9, 11-13, 20, 22, Col. 7, lines 1-45) both disclose a wireless mobile device(i.e. cell phone)

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performing an information transaction based upon user entered input and authenticating with a server is a functional equivalent of the claimed limitations. Regarding authentication limitations of claim 48, Cook (See abstract, Figs. 1-3, 6, 9, Col. 2, lines 20-55, Col. 5, lines 40-60, Col. 8, lines 20-25) or Catan (See Figs. 1, 4, 6A-9, 11-13, 20, 22, Col. 7, lines 1-45) both disclose a wireless mobile device performing an information transaction based upon user entered input and authenticating with a server prior to data exchange is a functional equivalent of the claimed limitations. Regarding claim 60, Cook (See abstract, Figs. 1-3, 6, 9, Col. 2, lines 20-55, Col. 5, lines 40-60, Col. 8, lines 20-25) or Catan (See Figs. 1, 4, 6A-9, 11-13, 20, 22, Col. 7, lines 1-45) both disclose a method for a wireless mobile device performing an information transaction including a payment based upon user entered input and authenticating with a server substantially as claimed. The differences between the above and the claimed invention is the use of promotional code. It is noted that the information input by the user into the mobile wireless device is believed to be the functional equivalent of a promotional code. Rosenthal et al (See Figs. 1-5) show a method for wireless transactions authentication including a server. It would have been obvious to the person having ordinary skill in this art to provide a similar arrangement for Cook or Catan because the input code elements are conventional functional equivalents. Regarding preference limitations of claims 61-62,

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Cook (See abstract, Figs. 1-3, 6, 9, Col. 2, lines 20-55, Col. 5, lines 40-60, Col. 8, lines 20-25) or Catan (See Figs. 1, 4, 6A-9, 11-13, 20, 22, Col. 7, lines 1-45) both disclose a wireless mobile device performing an information transaction based upon user entered input and authenticating with a server prior to data exchange based on user preferences to eliminate unwanted data spamming is a functional equivalent of the claimed limitations. Regarding authentication limitations of claims 63-65, Cook (See abstract, Figs. 1-3, 6, 9, Col. 2, lines 20-55, Col. 5, lines 40-60, Col. 8, lines 20-25) or Catan (See Figs. 1, 4, 6A-9, 11-13, 20, 22, Col. 7, lines 1-45) both disclose a wireless mobile device performing an information transaction based upon user entered input and authenticating with a server prior to data exchange is a functional equivalent of the claimed limitations. Regarding the vendor promotional limitations of claims 66-67, Cook (See abstract, Figs. 1-3, 6, 9, Col. 2, lines 20-55, Col. 5, lines 40-60, Col. 8, lines 20-25) or Catan (See Figs. 1, 4, 6A-9, 11-13, 20, 22, Col. 7, lines 1-45) both disclose a wireless mobile device performing an information transaction based upon user entered input and authenticating with a server and including product promotions is a functional equivalent of the claimed limitations.

Examiner's Note: Although Examiner has cited particular columns, line numbers and figures in the references as applied to the claims above for the convenience of the applicant(s), the

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specified citations are merely representative of the teaching of the prior art that are applied to specific limitations within the individual claim and other passages and figures may apply as well. It is respectfully requested that the applicant(s), in preparing the response, fully consider the items of evidence in their entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

3. Claims 1-8, 43-48, 60-67 are rejected under 35 U.S.C. . 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Certain claims (1, 43, 60) contain the terms "can be accessed...accessible... accessible and modifiable...indicating a desire" which are not positive limitations. (See *In re Collier*, 158 USPQ 266) It is not clear what is being claimed. The claims require only a possibility rather than an actual limitation. For example, anything is possible given sufficient time and resources.

Any inquiry concerning this communication should be directed to Salvatore Cangialosi at telephone number **(571) 272-6927**. The examiner can normally be reached 6:30 Am to 5:00 PM, Tuesday through Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell, can be reached at **(571) 272-6712**.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 3600 Customer Service Office whose telephone number is (571) 272-3600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system,

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see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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